HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO. 21719 OF 2006

Between:

Kancharla Saritha

..... Petitioner

AND

The Lok-Adalat-Family Court,
Visakhapatnam & another

.....Respondents

:: O R D E R::

Counsel for the Petitioner : Shri K. Ravindra Kumar

Dated: 23.10.2006

Per G.S.SINGHVI, CJ

In this petition, the petitioner has prayed for quashing award dated 20-10-2005 passed by Lok Adalat at Visakhapatnam in O.P.No.622 of 2005.

The petitioner – Kancharla Saritha and non-petitioner No.2 – Kancharla Leela Prasad were married on 20-3-1992. One male and one female child were born out of their wedlock. After 13 years of marriage, non-petitioner No.2 filed a petition under Section 13 (1)(i) and (ia) of the Hindu Marriage Act, 1955 for dissolution of the marriage by alleging that he was subjected to mental cruelty and harassment by the respondent (petitioner herein); that she was leading adulterous life with one Bhaskar and some other persons; that she had stopped discharging her marital obligations and was not taking care of the household.

The petition filed by non-petitioner No.2 was referred to Lok Adalat at Visakhapatnam. On 20-10-2005, both the parties appeared before the Lok Adalat along with their advocates and filed a joint memo with the prayer that a decree of divorce be passed. The same was signed by the parties and their advocates. On the next day i.e. 21-10-2005, the Lok Adalat passed award for dissolution of the marriage. The award proceedings were signed by the parties i.e. the petitioner and non-petitioner No.2 herein and the President and Member of the Lok Adalat. The relevant extracts of the award are reproduced below:

"**AWARD UNDER SECTION 21 OF LEGAL SERVICES AUTIORITIES ACT, 1987**

Whereas the petitioner/husband filed O.P.No.622 of 2005 for dissolving their marriage performed on dt.

20-03-1992 between the petitioner and the respondent/wife, before the Hon'ble Judge, Family Court, Visakhapatnam and being referred to this Lok-Adalat for settlement. After negotiations, conciliation and discussions and they are failed before the elders and the Lok-Adalat, at Visakhapatnam, the petitioner/husband and respondent/wife are decided to live separately, on the terms and conditions mentioned below and accordingly the marriage dt.20-03-1992 be and is hereby dissolved with effect from this date an Award is passed under Section 21 of Legal Services Authorities Act as hereunder:

TERMS AND CONDITIONS:

1. Both parties decided to live separately and voluntarily agreed to dissolve their marriage dt.20-03-1992 before the Lok-Adalat on this day i.e. 20th day of October, 2005.
2. It is agreed by the both parties that the petitioner/husband shall pay Rs.2,50,000/- (Rupees two lakhs and fifty thousand only) to the respondent/wife towards full and final settlement and permanent alimony to the respondent out of which, Rs.50,000/- shall be paid to the respondent in cash and the remaining amount of Rs.2,00,000/- shall be deposited in Nationalised Bank i.e. State Bank of Hyderabad, District Court Branch, FDR No.588770/dt.20-10-2005 in the name of the two children equally with a condition that she shall only entitle to receive the interest thereon during her life time and the children namely K. Himaja, aged 13 years, and K. Phanindra, aged 11 years, shall be entitled to receive the principle amount of Rs.2,00,000/- (Rupees two lakhs only) equally after her demise.
3. The landed property covered by Survey No.153/1 an extent of one acre and 60 cents situated at Godavarru

Village of Kankipadu, Sub-Registrar, Krishna District, which has been given by the grandmother i.e. Smt.Y. Ganga Bhavni to the minor children of the petitioner and the respondent namely K. Himaja, by way of registered gift settlement deed Registered Document No.2523/2004 before the Sub-Registrar of Kankipadu and the landed property covered by Plot No.111, in D.No.253/2 and 254 extent of 100 sq. yards situated at Kanchikacharla village of Krishna District which has been given by grandmother Y. Ganga Bhavani to the minor child of the petitioner and the respondent shall not be alienated mortgage, pledged, either by the petitioner or by the respondent, during the minority of the children for any purpose.

4. It is agreed by both the parties that the children namely Himaja & Phanindra shall be in the care and custody of the petitioner i.e. the father of the children Sri Kancharla Leela Prasad. The respondent/wife/Smt.Kancharla Saritha shall not claim for the children for her custody in future.

5. The petitioner shall lookafter the children freely and properly and shall get them educated with his own money and earnings.

6. The respondent shall not claim any maintenance from the petitioner in future as she has received Rs.2,00,000/- towards full and final settlement and permanent alimony.

7. As the petitioner and the respondent agreed to take divorce for the above conditions, the marriage in between the petitioner and the respondent held on 20-03-1992 may be dissolved by the order of this Hon'ble Court.

Accordingly, the marriage dt.20-03-1992 performed between the petitioner/husband and the respondent/wife be and is hereby dissolved by passing an AWARD on this the 20th day of October, 2005."

After more than eleven months of the dissolution of marriage, the petitioner filed this petition for setting aside the award of the Lok Adalat by alleging that she was forced to sign the joint memo. In paragraph 6 of her affidavit, the petitioner has averred as under:

> "6. I submit that the 2nd respondent filed the above O.P. No.622 of 2005 under Section 13 (1)(i)(ia) of Hindu Marriage Act, 1955. But the ingredients do not attract to the above case, as all the allegations made in the petition are relate to adultery. The 2nd respondent made serious and baseless allegations against my character and the same amounts to character assassination. It amounts to cruelty on the part of the 2nd respondent. I did not even receive the notice in the above O.P. I never approached any Advocate in this regard. The 2nd respondent himself engaged an Advocate on my behalf also. As such, he made conspiracy to get rid of me and played fraud on the court. I will substantiate my case if an opportunity is given to me. All my gold ornaments and articles are with the 2nd respondent only. In order to legalise his illegal intentions, the 2nd respondent initiated the above proceedings while keeping me in dark. He did not return the amounts taken by him from my late father and my mother. Due to the action of the 2nd respondent, my mother also left with no source of income, as she also gave all her amounts to him. It is relevant to submit here that the contents of the petition and the joint memo do not corroborate with each other. The 2nd respondent forcibly retained the custody of the minor children. Their future is not safe in the hands of the 2nd respondent in view of his bad vices. The minor children very much interested to stay with me only. Instead of advising the 2nd respondent to mend his behaviour, the parents of the 2nd respondent also instigating and supporting him. In fact, I have not received any amounts

from the 2nd respondent. But I was forced to sign on the joint memo. In order to get rid of me only, the 2nd respondent deposited the amounts in the name of the children as per the joint memo only to legalise his illegal actions."

We have heard Shri K. Ravindra Kumar and perused the record. The learned counsel conceded that the joint memo dated 20-10-2005 and award dated 21-10-2005 passed by the Lok Adalat contain the signatures of his client, but argued that the impugned award is liable to be set aside because the same is an end product of fraud played by non-petitioner No.2. Learned counsel emphasized that the petitioner is an illiterate lady and by taking advantage of her innocence and ignorance, non-petitioner No.2 forced her to sign papers on which joint memo was recorded.

We have considered the submission of the learned counsel, but have not felt persuaded to agree with him. A reading of the joint memo dated 20-10-2005 shows that the same was signed by the parties and their advocates. The award passed by the Lok Adalat was also signed by both the parties apart from the President and Member of the Lok Adalat. The petitioner has not explained as to why she did not challenge the award for a period of eleven months and why she did not complain against the alleged forcible obtaining of her signatures by non-petitioner No.2. Therefore, the story put forward by the petitioner in paragraph 6 of her affidavit cannot be believed and we cannot nullify the award by assuming that non-petitioner No.2 had used unfair means to secure the decree of divorce.

It is not the pleaded case of the petitioner nor the learned

counsel has argued that the President of the Lok Adalat or any official functionary coerced his client to sign the joint memo and award. Therefore, the complaint made by the petitioner after eleven months of dissolution of her marriage that she was forced to sign the joint memo cannot but be treated as an afterthought and as an unsavoury attempt to avoid the consequences of dissolution of marriage.

The argument of the learned counsel that the petitioner is an illiterate lady and she was made to sign the papers without understanding the contents of the joint memo is liable to be rejected on the short ground that if at all the petitioner had been forced to sign the papers, she would have brought this to the notice of the President and Member of the Lok Adalat or made a complaint immediately after passing of the award. However, the fact of the matter is that she did not lodge any complaint till the filing of this petition in the last week of September 2006.

For the reasons stated above, the writ petition is dismissed. However, it is made clear that the petitioner shall be free to file miscellaneous petition before the Lok Adalat to bring to its notice that non-petitioner No.2 has not complied with the terms and conditions incorporated in the award.

As a sequel to dismissal of the writ petition, WPMP No.27537 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

October 23, 2006
svs